

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

LINDA M. WILSON,

Defendant.

CASE NO. 8:09CR189

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 31). The Defendant has filed a motion for downward departure (Filing No. 33). The government adopted the PSR (Filing No. 29). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the enhancement in ¶ 25 under U.S.S.G. § 3B1.3 (abuse of a position of trust) and supporting facts in ¶¶ 13, 69, and 15. The objection will be heard at sentencing, and the government has the burden of proof by a preponderance of the evidence. The Defendant's request to testify for 5-10 minutes is granted.

The Defendant also objects to the portion of ¶ 17 indicating that she missed her initial appearance. The objection is denied, as the Court is not at liberty to change the agent's statement and the record shows that Ms. Wilson was not at her initial appearance because the Marshal could not serve the summons because she was not at the address provided. Also, this matter does not affect the sentencing guideline calculation.

IT IS ORDERED:

1. The Defendant's objections to ¶ 17 (Filing No. 31) of the PSR are denied;

2. The Defendant's objections to ¶¶ 25, 13, 15, and 69 of the PSR will be heard at sentencing;

3. The Defendant's motion for downward departure (Filing No. 33) will be heard at sentencing;

4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

5. Absent submission of the information required by paragraph 4 of this Order, my tentative findings may become final; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

Dated this 28th day of December, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Court